

UCDD

INTERNAL REVIEW REPORT

Walker, Tipps & Malone PLC

Walker, Tipps, & Malone

- ***Our assignment:***

- Respond to public records request & ensure compliance with law
- Conduct an Internal Review
- Not financial

- ***Work performed:***

- Media and public records requests
- Interviews
- Meetings
- Documents
- Research

Organization of the Report

I. Powers and limitations of the UCDD and related entities

II. Issues with Living the Dream

III. Issues with the UCDD and related entities

IV. Options and recommendations

PART ONE

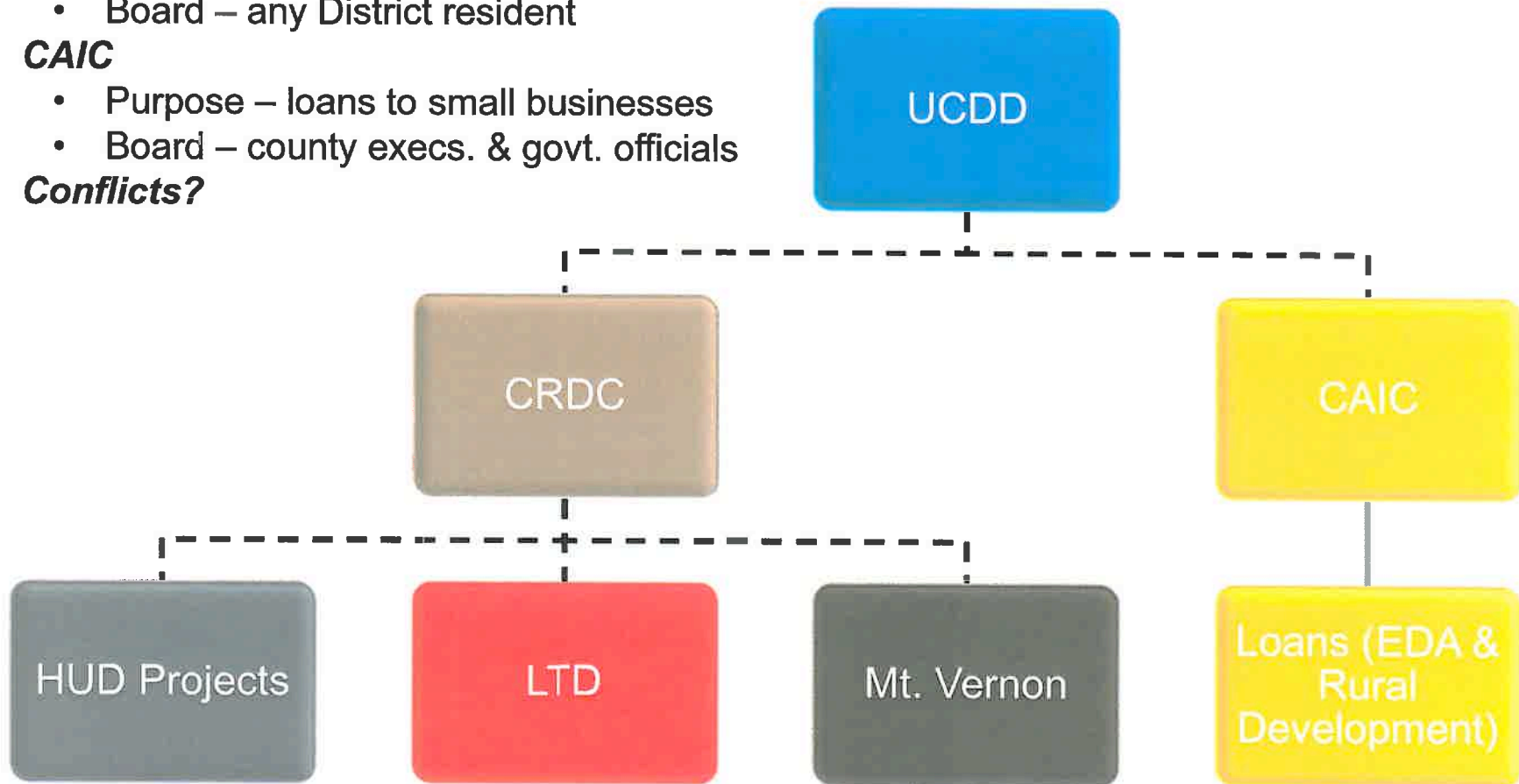
Powers & Limitations of the UCDD & Related Entities

UCDD – Purposes & Limitations

- ***Development District Act of 1965 and By-Laws***
- ***Objectives & Purposes:***
 - Area-wide planning and facilitate economic development activities
- ***Limitations:***
 - Strategic plans advisory only – up to government bodies to adopt
 - No authority that would interfere with city & county governments
 - No construction projects
 - Membership voluntary

UCDD: Related Entities

- **CRDC**
 - Purpose – housing project sponsor
 - Board – any District resident
- **CAIC**
 - Purpose – loans to small businesses
 - Board – county execs. & govt. officials
- **Conflicts?**



PART TWO

Issues with Living the Dream

Living the Dream: Origins

- ***Timeline:***

- 2009 – Mount Vernon
- February 2010 – LTD incorporated as non-profit
- May 2010 – CRDC/LTD Boards approve land purchase & BPC loan
- June 2010 – property purchased; dissolve non-profit & form for-profit
- December 2010 – form new non-profit & vote to dissolve for-profit

- ***Switch between non-profit and profit***

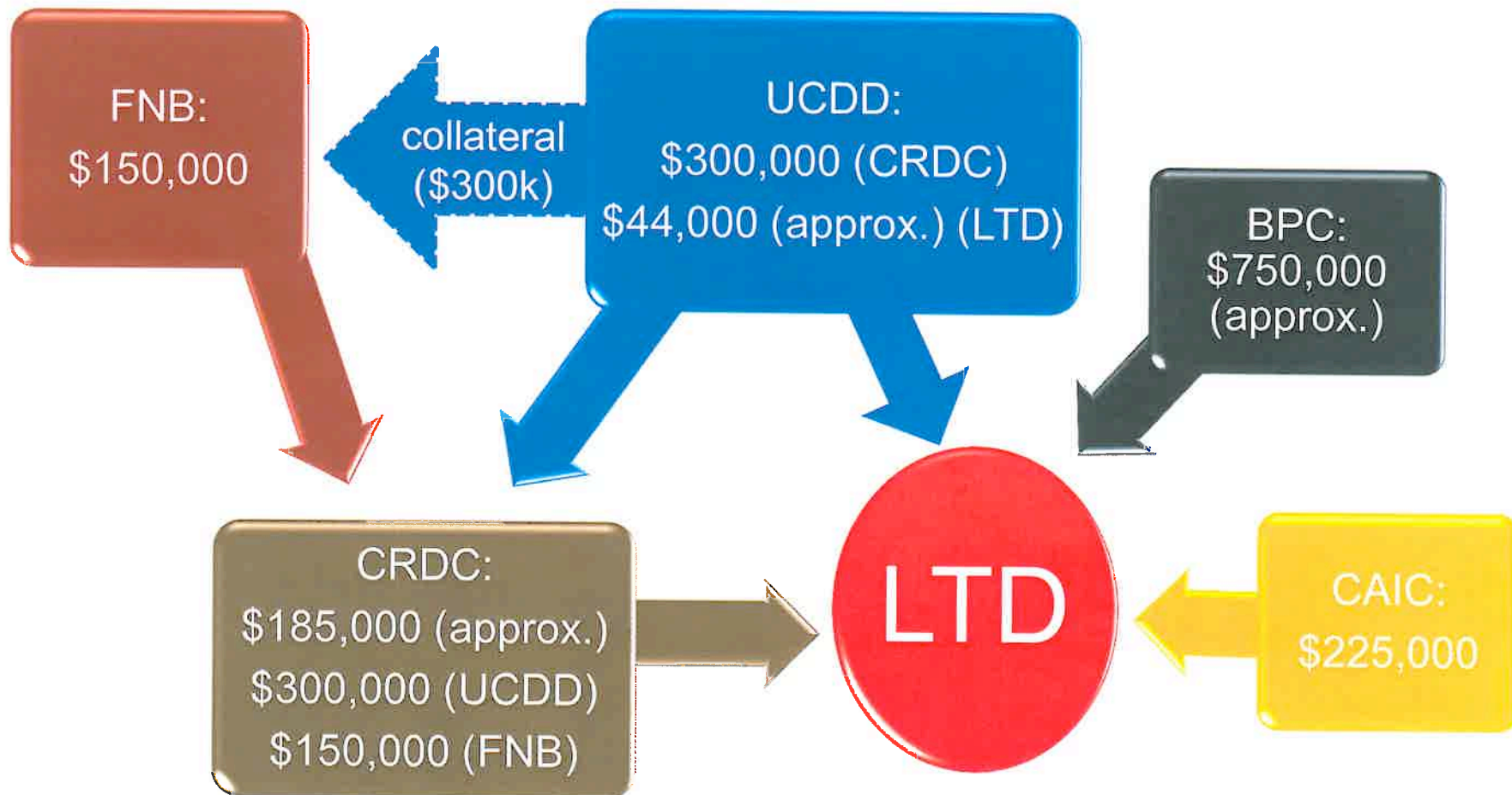
- ***Who owns LTD?***

- Not-for-profit with board controlled by CRDC
- Reverter clause

LTD: Project Planning

- ***Financial planning required for typical CRDC project:***
 - Consultant, architect, attorney, and contractor
 - Conflict of interest certification
 - Detailed feasibility study
 - Land use certification
- ***Compare with LTD:***
 - No feasibility study
 - No financial controls or exit strategy
 - No construction budget
 - Minimal operation budget
- ***LTD design issues***

LTD: Funding



LTD: Summary of Funding

- ***Payments on Loans:***

- BPC – monthly payments of \$3,100 (approx.); will increase to \$6,000 (approx.)
- FNB - line matures in Dec. 2012; interest currently being paid by CRDC (over \$900 per month)
- CAIC - loan matures in Sept. 2012 with 180 monthly payments of \$1,798.69

- ***Total UCDD money at risk:*** over \$490,000

- ***UCDD, CRDC, & CAIC money at risk:*** approx. \$900,000

- All but \$225,000 unsecured

- ***Order of Priority:***

- BPC, mechanics lien (currently over \$78,000), CAIC, UCDD/CRDC

LTD: Funding Authorization

- ***UCDD funds:*** no Board approval
- ***CRDC funds:*** no Board approval, except for \$25,000
- ***FNB line of credit draws:***
 - CRDC (no Board approval)
 - UCDD (no Board approval)
- ***CAIC loan:***
 - Misstatements at July 11, 2011 Board meeting

LTD: 2/16/10 UCDD Meeting Minutes

- Signature page of the minutes:

Minutes
Upper Cumberland Development District
Executive Committee Meeting
February 16, 2010 – Page 4

Ms. Brown stated that the Tennessee Center for Performance Excellence has a great partnership with ECD. We have offered this to counties free of charge as a Three Star incentive. Ms. Brown congratulated Overton and Cumberland counties for going through the process and awards will be presented to the counties on February 24, 2010.

Kenneth Copeland introduced Greg McDonald the new Overton County Chamber of Commerce Director.

There being no further business to discuss Curtis Hayes made a motion to adjourn. James Carter seconded the motion. Motion carried unanimously.


 Chairman


 Secretary

Executive Committee Members Present:

Mike Cannon	Curtis Hayes
Dale Reagan	Stephen Bilbrey
J. H. Graham	Michael Nesbitt
Mike Foster	John Pelham
John Mullinix	Herd Sullivan
James Carter	Taft Hendrixson
Kenneth Copeland	Jeff McCormick

Original

Minutes
Upper Cumberland Development District
Executive Committee Meeting
February 16, 2010 - Page 3

Vickie Callahan stated that we will receive a 15% reduction in the Relative Caregiver Program for the new fiscal year.

Ms. Callahan reported that the Solid Waste Resolution that the Environment Committee passed was delivered to Nashville. There were some changes in the solid waste fees. Instead of the \$5,000 increase it will remain at \$3,000 for less than 10,000 tons and \$4,000 if over 10,000 tons.

Larry Webb stated that we are starting construction on Fiddlers Annex project. We are anxiously awaiting the application that we submitted for a 202 project in Lebanon. We did a homeless count for the region and there are approximately 1,000 homeless people in the Upper Cumberland. John Pelham asked if there was a breakdown by county. Larry will get the information to everyone. John Pelham made a motion to accept the project report as presented. Michael Nesbitt seconded the motion. Motion carried unanimously.

Ben Rodgers announced that GASBY 54 is coming down and it will be stricter than GASBY 34. Counties will have to be in compliance by June, 2011. Mr. Rodgers introduced Erin Kettelle Research Coordinator at CTAS.

Karen Brown stated that there will be 93 Energy Efficient Community Block grants awarded very soon. The Rural Technology grants have been made. CREST (Creating Rural Entrepreneurial System in Tennessee) has awarded their grant opportunities and Cumberland County received the award. Pentress, Clay and Pickett also applied as a regional partnership.

Ms. Brown announced that the deadline for applying for the Tennessee Downtowns Program was February 5th. Eighteen applications were submitted across the state and Tennessee Downtown will pick six applications for downtown revitalization. This is an eighteen month program where it is very hands on in four areas: development for downtown, design organization, promotion and economic restructuring.

Ms. Brown announced that there is some Leadership Grants available called Pioneer Academy. There are twenty eight counties across the state that haven't taken advantage of some of the educational sessions, therefore, ECD is offering \$30,000.00 worth of free training.

Ms. Brown stated that she has sent out emails to the communities that she works with and if anyone has any questions give her a call. Ms. Brown stated that this also pays for the Elected Officials Academy with MTAS and the County Officials Certified Training Program with CTAS.

Ben Rodgers stated that all of his counties should have received an invitation to the March 8, 2010 meeting at the Leslie Town Centre. The meeting starts at 4:00 p.m., dinner is at 6:00 p.m. and another class starts at 6:30 p.m.

Altered

Minutes
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Director Askins discussed the need for independent living group homes in the Upper Cumberland area. The Housing Corporation 501(c3) nonprofit corporation is exploring possible sites in the area. Ms. Askins also discussed the need for startup and renovation dollars. Much discussion was had regarding the details of this project. Kenneth Copeland made the motion that due to UCDD having an unrestricted fund balance in excess of 1.7 million that an amount not to exceed \$300,000.00 be granted to CRDC for purchase, renovation or startup of independent living for seniors or individuals with disabilities. John Mullinix seconded the motion. Motion carried unanimously.

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LTD: 1/4/12 CRDC Meeting Minutes

- Discussion regarding start-up funding for housing projects
- Minutes

Cumberland Regional Development Corporation
Board of Directors Meeting
January 4, 2012 - Page 3

*Larry ^{reported} ~~stated~~
as that we have transferred
approximately 180K from CRDC
to LTD at this time*

make a request to HUD and they have to release it. Larry stated that LTD is not a HUD project but it is under the umbrella of it all and suggested that we follow the same pattern. Wendy ask for a motion to use funds that are available through CRDC to fund other projects as necessary. Wendy stated that we need to leave the motion open because we have other projects that we offset cost with and that is what that money is generated for is to offset cost of other projects that we are trying to build. We have always done it. Wendy Askins suggested that we leave the if motion open so if we need funds for Peyton Manor or Dogwood Manor. We have a line of credit that we have to use for a lot of start up on these projects and when the projects close that money goes back in to start up the next project. Larry stated that there is a checklist of things that has to be done before there is any funds that come back to CRDC. To date, we have spent in the

LTD: Current Status

Expenses	With Tenants		Without Tenants	
	Monthly	Annual	Monthly	Annual
Personnel	\$13,900	\$166,800	\$2,000	\$24,000
Misc. Operating	\$4,000	\$48,000	\$1,500	\$18,000
Total Expenses	\$17,900	\$214,800	\$3,500	\$42,000

*Monthly Mortgage Payments *Not* Included – BPC (\$3,100-\$6,000), CAIC (\$1,800), FNB Line of Credit (??)

**Monthly Revenue with 20 tenants (avg. rent of \$1200) – \$24,000

***Projected cost to complete construction (including mechanic's lien) - \$140,000

****All numbers based on current information and estimates

PART THREE

Issues with the UCDD & Related Entities

UCDD: Expense Issues

- ***The UCDD Expense Reimbursement Policy provides:***
 - “Employees will be reimbursed for authorized expenses incurred in the conduct of District business at a rate specified in the UCDD Travel Regulations.”
- ***The UCDD Travel Regulations provide:***
 - “Receipts are required for all items or fares in excess of \$3.50 except for meals, taxi fares, tolls and ferry fees.”
 - Also requires that employees “***be as conservative as circumstances permit***” when traveling

UCDD: Reimbursements

- Reimbursements without receipts or adequate documentation of business purpose
- Trips
- Gifts

UCDD: Nepotism

- **UCDD Personnel Procedures Manual**
 - *Employment of Relatives* – “No employee will be hired or otherwise placed within the same direct line of supervision where one relative is responsible for supervising the job performance or work activities of another relative; provided, that to the extent possible, the provisions of this chapter shall not be construed to prohibit two (2) or more such relatives from working within the Agency.”
 - *Supervision of UCDD Personnel* – “The Executive Director will name, select, supervise, and release all UCDD employees; and will prescribe their duties, responsibilities and authorities in accordance with these policies and in accordance with the approved work programs and budgets of the contracts operated by UCDD. The Executive Director is the only person with the authority to hire, promote, transfer, or dismiss any other staff member in any position.”
 - *Job Advertisements* – generally required

LA Management

- **Origin:**

- *Chartered as for-profit – June 2010*
- *Officers – Larry (President) and Wendy (Secretary/Treasurer)*
- *Reason for creation*
- *Contract with UCDD – July 2011*
- *Dissolution – November 2011*

- **Conflict of Interest:**

- TCAD Code of Conduct
- UCDD Personnel Procedures Manual

Government Investigations

- TCAD
- Economic Development Administration (U.S. Dept. of Commerce)
- HUD
- Comptroller of the Treasury
- Contracting Partners

Board Performance

- **Duties:** by law, board members owe a fiduciary duty of care and loyalty to the entity and must act:
 - in good faith;
 - with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - in a manner the member reasonably believes to be in the best interests of the entity
- **Attendance at Board Meetings**
 - UCDD Executive Committee
 - CRDC
 - CAIC
- **Position of UCDD Secretary remains open**

UCDD Board

- **Financial**
 - No audit committee or review of audits
 - No operational budget; use of unrestricted funds for “special projects”
 - Use of stamps on checks
- **Trips and Gifts**
- **Meeting Minutes**
- **Personnel**
- **LTD**

PART FOUR

Options & Recommendations

Recommendations: Personnel

- Search Committee for Executive Director
 - *Interim Executive Director*
- Financial/Compliance Officer
- Other personnel

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Recommendations: LTD – The Asset

Living The Dream Senior Living I Three Year Budget Proforma

Income	Year 1	Year 2	Year 3
Revenue/ 20 Tenants	\$288,000	\$296,840	\$305,539
Storage rental	\$ 11,800	\$ 11,800	\$ 11,800
Miscellaneous	\$ 1,000	\$ 1,000	\$ 1,000
Fund Raising	<u>\$ 30,000</u>	<u>\$ 31,200</u>	<u>\$ 32,100</u>
	\$330,800	\$340,840	\$350,439
 Expenses			
Management Fee	\$ 25,000	\$ 25,000	\$ 25,000
Supervisor	\$ 20,000	\$ 20,000	\$ 20,000
Office Expense	\$ 1,000	\$ 1,030	\$ 1,060
Cleaning Supplies	\$ 3,500	\$ 3,805	\$ 3,713
Bookkeeping	\$ 1,200	\$ 1,236	\$ 1,275
FICA/Social Security	\$ 14,000	\$ 14,000	\$ 14,000
General Maintenance	\$ 5,000	\$ 5,200	\$ 5,500
Business Fees	\$ 1,000	\$ 1,100	\$ 1,200
Utility	\$ 19,000	\$ 19,570	\$ 20,157
Water/Sewer	\$ 3,000	\$ 4,000	\$ 5,000
Cable	\$ 3,500	\$ 3,500	\$ 3,700
Taxes	\$ 12,000	\$ 13,000	\$ 13,500
Insurance	\$ 10,000	\$ 10,000	\$ 10,000
Audit	\$ 1,500	\$ 1,500	\$ 1,800
Food	\$ 38,555	\$ 41,110	\$ 43,665
Food Prep Personnel	\$ 20,000	\$ 21,000	\$ 21,500
GENERAL LIABILITY	\$ 8,500	\$ 8,500	\$ 8,500
House Keeping Personnel	\$ 10,000	\$ 12,000	\$ 14,000
Principal & Interest Payment	<u>\$ 72,000</u>	<u>\$ 72,000</u>	<u>\$ 72,000</u>
	\$268,755	\$277,451	\$285,370

Note: Tenants charges are \$1,200.00 each month
BASED ON INCOME AVERAGE

Recommendations: LTD - Exposure

- **UCDD investment: \$490,000 (approx.)**
- **CRDC investment: \$185,000 (approx.)**
- **CAIC investment: \$225,000**
- **Third Party Investment Priorities**
 - BPC, mechanics lien, CAIC, UCDD/CRDC
- **Obligation of LTD to repay UCDD/CRDC**

Recommendations: LTD - Options

- **Options for LTD:**
 - Close, secure, notify creditors, walk away
 - Complete essential construction, pay bills, cease operations, negotiate creditor standstill, market property
 - Full completion, change name, operation, then decide on retention or sale
- **Partial recoupment possibilities**
- **Decide now whether to shutter or operate for some period**
 - IRC recommendation
 - Executive Committee decides
- **If operate, chair should appoint small committee (5-6 members) with full authority to oversee LTD**

Recommendations – Financial Controls

- Financial/Compliance Officer
- Audit Committee
- Auditor selection
- Operational budget
- Use of unrestricted funds policy
- Check signing
- Travel and reimbursement policy

Recommendations - Miscellaneous

- Nepotism
- Document Retention and Public Records Act Requests
- Meeting Minutes